

Applicant : Mavliev et al.
Serial No. : 10/773,868
Filed : February 6, 2004
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Attorney's Docket No.: 05542-540001 / 008343/CMP

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REMARKS

I. Introduction

Applicants note that the Examiner has not provided an initialed copy of the Information Disclosure Statement filed on August 19, 2005. A copy of the IDS is attached hereto for the Examiner's reference. Applicant respectfully requests that the copy of the IDS be initialed indicating that each of the prior art references cited therein have been considered and made of record.

For the reasons set forth below, Applicant respectfully submits that all pending claims are patentable over the cited prior art references.

II. The Rejection Of Claims 16, 19-62, 29-30 and 75-78 Under 35 U.S.C. § 103

Claims 16, 19-62, 29-30 and 75-78 are rejected under 35 U.S.C. § 103(a) as being unpatentable over USP No. 6,482,307 to Ashjaee in view of US Pub No. 2002/0077031 to Johansson. Applicant respectfully traverses this rejection for at least the following reasons.

A. The Recess Disclosed In Johansson And The Claimed Aperture Are Structurally Different

Claim 16 recites a first electrode for contacting a polishing electrolyte on the polishing pad, the first electrode positioned on the platen and substantially spanning the platen and having an aperture therethrough.

Referring to Johansson, this reference teaches a polishing pad that contains a cover layer 34 and a backing layer 32. Johansson suggests removing a portion of bottom surface of the cover layer 34 to create a recess in the bottom surface of the polishing pad 30. Johansson suggests that if the polishing pad 30 is thin or has a magnet permeability that does not interfere with eddy current measurement, then the polishing pad 30 does not need such a recess (see, paragraph [0033]).

Most importantly, Johansson teaches forming such a recess in the bottom surface of the polishing pad 30 (e.g., by removing a portion of the cover layer 34) while retaining a thin pad

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section 36 between the core and the substrate (possibly to prevent slurry supplied on the surface of the polishing pad 30 from leaking into the core) (see, Figs. 4A-4C).

As is evident, this recess formed in the bottom surface of the cover layer 34 is not the same as the claimed aperture, because this recess is not formed all the way through the polishing pad (i.e., not through the cover layer 34). That is, assuming *arguendo* that the proposed combination is proper, Johansson, at best, suggests modifying the anode plate 9 of Ashjaee to remove a portion of the anode plate 9 so that a thin section remains.

However, because Johansson does not teach removing the entire portion of the cover layer 34 to establish an aperture through the cover layer, it does not suggest forming an aperture through the anode plate 9 of Ashjaee so as to arrive at the claimed invention.

B. The Proposed Combination Does Not Disclose A Housing Positioned Partially In A Cavity In The Platen

Claim 16 further recites a housing positioned partially in a cavity in the platen and having a portion extending above a top surface of the platen and through an aperture in a first electrode.

In the statement of rejection, the Examiner admits that Ashjaee does not disclose a housing positioned partially in a cavity in the platen, and reiterates that the foregoing claimed feature is shown in Figs. 4B and 4C of Johansson (page 3, lines 10-12).

However, Applicant respectfully submits that neither Fig. 4B nor Fig. 4C of Johansson illustrate a housing having an eddy current sensor secured therein. Rather, Figs. 4B and 4C collectively illustrate a core 44 located in a recess 26 (see, Fig. 2A) formed in the platen 24, where a portion of the core 42 extends through a gap 33 formed by the partial removal of the backing layer 34 and cover layer 32.

However, Johansson does not disclose any housing. Absence a showing of this claimed feature, inevitably, Johansson also does not disclose that such a housing has a portion that specifically extends above a top surface of the platen (note that Figs. 4B and 4C of Johansson illustrate only a portion of the core that extends above the top surface of the platen 24).

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C. The Use Of Opinion Is Improper

As discussed *supra*, Johansson teaches a polishing pad that contains a cover layer 34 and a backing layer 32. Johansson suggests removing a portion of bottom surface of the cover layer 34 to create a recess in the bottom surface of the polishing pad 30. Johansson suggests that if the polishing pad 30 is thin or has a magnet permeability that does not interfere with eddy current measurement, then the polishing pad 30 does not need such a recess (see, paragraph [0033]).

In the pending rejection, though not explicitly stated, the Examiner admitted that the anode plate 9 (alleged first electrode) of Ashjaee does not disclose an aperture, but maintained that because Johansson discloses that if a polishing pad is not sufficiently thin or non-magnetic, a recess is required so as to arrive at the claimed invention that an aperture is required in the anode plate 9 of Ashjaee.

However, Applicant respectfully submits that this statement as a prelude to the rejection is not a proper basis for rejecting Applicant's claims, as the statement is directed to the *an opinion* rather than what is taught by the prior art. Applicant submits that an opinion cannot be relied on to replace the deficiency of a prior art reference. If the pending rejection intended to take Official Notice that the differences between Johansson and the present invention as recited in the rejected claims are well-known in the art, then pursuant to M.P.E.P. § 2144.03, Applicant respectfully traverses such an assertion and request the Examiner to cite one or more references in support of this position (see, second paragraph, last three lines of M.P.E.P. § 2144.03, which requires the Examiner to cite a reference in support of her allegation of Official Notice when Applicant traverses).

III. All Dependent Claims Are Allowable Because The Independent Claims From Which They Depend Are Allowable

Under Federal Circuit guidelines, a dependent claim is neither anticipated nor rendered obvious if the independent claim upon which it depends is allowable because all the limitations of the independent claim are contained in the dependent claims, *Hartness International Inc. v. Simplicatic Engineering Co.*, 819 F.2d at 1100, 1108 (Fed. Cir. 1987). Accordingly, as

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independent claim 16 is patentable for the reasons set forth above, it is respectfully submitted that all claims dependent thereon are also in condition for allowance.

IV. Conclusion

By responding in the foregoing remarks only to particular positions taken by the Examiner, the Applicant does not acquiesce with other positions that have not been explicitly addressed. In addition, Applicant's arguments for the patentability of a claim should not be understood as implying that no other reasons for the patentability of that claim exist.

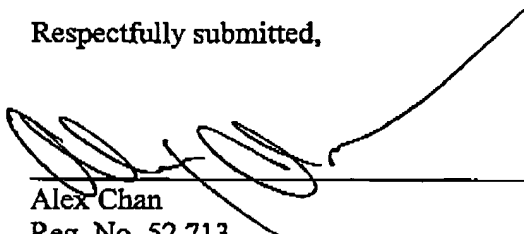
For all of the reasons set forth above, it is urged that the application is in condition for allowance, an indication of which is respectfully solicited.

If there are any outstanding issues that might be resolved by an interview or an Examiner's amendment, the Examiner is requested to call Applicant's attorney at the telephone number shown below.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account 06-1050 and please credit any excess fees to such deposit account.

Respectfully submitted,

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